

Application No. 10/650,510  
Request for Reconsideration dated August 14, 2006  
Reply to Office action dated July 19, 2006

## **REMARKS**

Further examination and reconsideration of the subject application are respectfully requested. Claims 1-40 are pending in the application. Claims 9-12 and 16-40 have been withdrawn from consideration by the Examiner in response to a restriction requirement. Applicants would like to thank Examiner Hailey for her time in discussing the application in her office on August 9, 2006.

### Restriction Requirement and Withdrawn Rejection

Applicants acknowledge the Examiner's statements regarding the election / restriction requirement and the withdrawal of the rejection of claims 13-15 under 35 U.S.C. §112.

### Rejection of Claims 1-5 and 13-15 under 35 U.S.C. §103(a)

Claims 1-5 and 13-15 stand rejected under 35 U.S.C. §103(a) in view of U.S. Patent No. 4,839,331 to Maroldo et al ("Maroldo"). In addition, claims 6-8 stand rejected under 35 U.S.C. §103(a) over U.S. Patent No's 6,452,043 and 6,235,673 to Zoeller et al. each in view of U.S. Patent No. 4,839,331 to Maroldo et al. Applicants respectfully traverse the rejection and the statements made in support thereof. Applicants further incorporate by reference the remarks set forth in their previous response pertaining to the deficiencies of Maroldo and Zoeller in making the present invention obvious.

The rejection hinges on the assertion that Maroldo somehow teaches or suggests a range of particle sizes that encompasses an average particle size of 1 to about 200  $\mu\text{m}$  as set forth in the present claims. This assertion is based on the following disclosure:

Although resin beads of the size produced by conventional suspension polymerization processes are a useful size for the further reactions and end uses, the process may be conducted on larger or smaller beads, and even on ground macroporous resins produced in non-bead form. For adsorbent and separative use, the resins may be further ground or selectively sieved to produce the desired particle size. (Maroldo, col. 4, lines 49-56)

Applicants respectfully disagree with this assertion. The above disclosure of Maroldo does not point to any specific range of particle size that would encompass, much less teach or suggest, Applicants' particle size range. As stated in §2142 of the MPEP, "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). Here there is no such express or implied suggestion of a particle size range that would have included Applicants' claimed range. In fact, the above disclosure of Maroldo, encompasses an infinite number of possible particle size ranges that would not have directed the skilled person to any specific range. For example, on reading Maroldo, the skilled person could have reasonably selected a particle size range of 2500  $\mu\text{m}$  to 5000  $\mu\text{m}$  or, in another example, 0.05  $\mu\text{m}$  to 0.5  $\mu\text{m}$ , both of which would have been outside of Applicants' claimed range. The cited disclosure, therefore, is ambiguous as to a specific particle size range and, by any reasonable interpretation, could not be considered an explicit or implied suggestion or teaching of Applicants' invention.

Applicants respectively submit that the Examiner fails to provide a clear and particular showing of a teaching or suggestion by the cited references, either individually or in combination, of Applicants' fluidizable catalyst as claimed and, thus, fails to make a *prima facie* case of obviousness. Nevertheless, even if one assumes a *prima facie* case is made, Applicants' showing of unexpected results weigh in favor of patentability. Specifically, Applicants direct the Examiner's attention to Comparative Example 1 on page 37 of the instant application which shows Applicants' catalyst as claimed unexpectedly shows improved fluidization properties when compared against Ambersorb 572 (particle size range of 297  $\mu\text{m}$  to 841  $\mu\text{m}$ ) as disclosed in Zoeller. Better fluidization behavior, in turn, typically results in catalysts having better isothermal temperature profiles, greater fluidized bed dimensional stability, and lower gas space

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velocities to achieve fluidization. Applicants respectfully submit that when these results are properly considered, the alleged *prima facie* obviousness is overcome.

In view of the arguments set forth above, it is the Applicants' respectful submission that there can be no finding of obviousness by the Examiner and that the rejection is in error. Reconsideration and withdrawal of the rejection, therefore, is respectfully requested.

In summary, applicant believes the application to be in condition for allowance. Accordingly, the Examiner is respectfully requested remove all rejections and pass the application to issuance.

Respectfully submitted,

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